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# HOUSE BILL No. 1850

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-30-1-1; IC 31-32.

**Synopsis:** Commitment of minor for drug and alcohol treatment. Allows a juvenile court to order involuntary drug and alcohol treatment for a child.

**Effective:** July 1, 2003.

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### Becker, Stilwell

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January 23, 2003, read first time and referred to Committee on Human Affairs.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## HOUSE BILL No. 1850

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 31-30-1-1, AS AMENDED BY P.L.217-2001,  
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2003]: Sec. 1. A juvenile court has exclusive original  
4 jurisdiction, except as provided in sections 9, 10, 12, and 13 of this  
5 chapter, in the following:

6 (1) Proceedings in which a child, including a child of divorced  
7 parents, is alleged to be a delinquent child under IC 31-37.

8 (2) Proceedings in which a child, including a child of divorced  
9 parents, is alleged to be a child in need of services under  
10 IC 31-34.

11 (3) Proceedings concerning the paternity of a child under  
12 IC 31-14.

13 (4) Proceedings under the interstate compact on juveniles under  
14 IC 31-37-23.

15 (5) Proceedings governing the participation of a parent, guardian,  
16 or custodian in a program of care, treatment, or rehabilitation for  
17 a child under IC 31-34-16 or IC 31-37-15.



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(6) Proceedings under IC 31-34-4, IC 31-34-5, IC 31-37-5, and IC 31-37-6 governing the detention of a child before a petition has been filed.

(7) Proceedings to issue a protective order under IC 31-32-13.

(8) Proceedings in which a child less than sixteen (16) years of age is alleged to have committed an act that would be a misdemeanor traffic offense if committed by an adult.

(9) Proceedings in which a child is alleged to have committed an act that would be an offense under IC 9-30-5 if committed by an adult.

(10) Guardianship of the person proceedings for a child:

(A) who has been adjudicated as a child in need of services;

(B) for whom a juvenile court has approved a permanency plan under IC 31-34-21-7 that provides for the appointment of a guardian of the person; and

(C) who is the subject of a pending child in need of services proceeding under IC 31-34.

**(11) Proceedings concerning involuntary drug and alcohol treatment under IC 31-32-16.**

**(12) Other proceedings specified by law.**

SECTION 2. IC 31-32-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. The following persons are entitled to be represented by counsel:

(1) A child charged with a delinquent act, as provided by IC 31-32-2-2.

(2) A parent, in a proceeding to terminate the parent-child relationship, as provided by IC 31-32-2-5.

**(3) A child in a proceeding for involuntary drug and alcohol treatment under IC 31-32-16.**

**(4) Any other person designated by law.**

SECTION 3. IC 31-32-16 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

**Chapter 16. Involuntary Drug and Alcohol Treatment**

**Sec. 1. A proceeding under this chapter is separate from and does not affect:**

**(1) a proceeding for involuntary treatment under IC 12-26; or**

**(2) an order from a juvenile court under IC 31-37 that requires drug or alcohol treatment.**

**Sec. 2. (a) A parent, guardian, or custodian of a child may petition the juvenile court in the county in which the child resides for involuntary drug and alcohol treatment if the child:**

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1 (1) is incapable of consenting; or  
 2 (2) refuses to consent;  
 3 to voluntary treatment.

4 (b) Involuntary drug and alcohol treatment under this chapter  
 5 may include inpatient services.

6 Sec. 3. A petition filed under section 2 of this chapter must  
 7 include the name and age of the child and a summary of facts that  
 8 support the petitioner's request for involuntary drug and alcohol  
 9 treatment.

10 Sec. 4. A child is entitled to representation by counsel in a  
 11 proceeding under this chapter.

12 Sec. 5. (a) After receiving a petition filed under this chapter, the  
 13 juvenile court shall order the child named in the petition to  
 14 undergo a drug and alcohol assessment. The assessment shall be  
 15 performed by:

- 16 (1) a psychiatrist;
- 17 (2) a psychologist with training in drug and alcohol
- 18 assessment and treatment; or
- 19 (3) an addiction counselor certified by a state or national
- 20 accrediting body.

21 If it is determined that involuntary treatment is necessary, the  
 22 assessment must include a recommended level of care and length  
 23 of treatment.

24 (b) After completion of the assessment, the juvenile court shall  
 25 conduct a hearing. Each person who performed an assessment  
 26 must be present and available to testify at the hearing.

27 Sec. 6. (a) Following a hearing, the juvenile court may order  
 28 involuntary drug and alcohol treatment for not more than  
 29 forty-five (45) consecutive days if the court finds by clear and  
 30 convincing evidence that the child:

- 31 (1) is a drug or alcohol abuser (as defined in 440 IAC 4.4-1-1);
- 32 (2) is incapable of consenting to or refuses to consent to
- 33 voluntary treatment services; and
- 34 (3) will benefit from a period of involuntary drug and alcohol
- 35 treatment.

36 (b) The juvenile court may order involuntary drug and alcohol  
 37 treatment that differs from the treatment recommended in the  
 38 assessment if the court makes the required findings under  
 39 subsection (a) and sets forth in its order a statement of facts in  
 40 support of its alternative disposition.

41 Sec. 7. (a) Before the expiration of a period of involuntary  
 42 treatment, the juvenile court shall conduct a review hearing to

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1 determine whether further treatment is necessary.

2 (b) The juvenile court may order an additional term of  
3 treatment if it finds at the initial review hearing by clear and  
4 convincing evidence that the prerequisites enumerated in section  
5 6(a) of this chapter are present and further treatment is necessary.  
6 An additional term of involuntary treatment may not exceed  
7 forty-five (45) consecutive days and the juvenile court must  
8 conduct a review hearing before the expiration of the additional  
9 term. The court may order subsequent terms of involuntary  
10 treatment if at each review hearing the court makes findings  
11 required by this section.

12 (c) Each order for an additional term of treatment under  
13 subsection (b) must be supported by written findings of fact. The  
14 juvenile court shall issue written findings of fact not more than ten  
15 (10) days after the review hearing that orders an additional term  
16 of involuntary treatment.

17 (d) Notwithstanding IC 34-10-1-2, a child must be represented  
18 by counsel at each review hearing under this section. The juvenile  
19 court shall appoint counsel if the parent, guardian, or custodian is  
20 indigent.

21 Sec. 8. The juvenile court may modify the original terms of  
22 involuntary drug and alcohol treatment if it finds by clear and  
23 convincing evidence that a substantial change in circumstances  
24 that supported the original terms and conditions of treatment has  
25 occurred.

26 Sec. 9. A parent, guardian or custodian may be required to  
27 contribute towards the payment of court costs, court fees, and the  
28 costs of assessment and treatment if the court determines the  
29 parent, guardian, or custodian has sufficient financial means to  
30 make a contribution. If the juvenile court determines that the  
31 parent, guardian, or custodian has insufficient means to contribute  
32 toward court costs, court fees, and the costs of assessment and  
33 treatment, then costs and fees will be paid as set forth under  
34 IC 31-40.

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